

**Access to Microfinance & Improved Implementation of Policy
Reform
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**Conformity with the following WTO Agreements:
GATT 1994 (articles I, III, XI) and Import Licensing**

Final Report

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Import and Export Law (Law No.14, 1992)

1. It is obvious from the text that the granting of import and export licenses is not automatic (Articles 7, 8 and 9). Restrictions and prohibitions imposed under these Articles must be justified in WTO as exceptions from the general prohibitions and quantitative restrictions stipulated in Article XI of GATT. The Law does not contain any indication of the grounds on which licenses will be granted or refused.
2. There is in Article 6 of the Law a provision for fees and fines imposed in connection with import and export transactions to be «determined by the system». It is essential that such fees and fines be imposed on a basis of non-discrimination and national treatment.
3. In Article 10 A-1 and 2, there are enumerated circumstances in which the Minister of Industry and Trade is entitled to cancel retroactively import and export licenses. These circumstances (the introduction of an import or export prohibition, and the restriction of the export or import «to another entity») are difficult to reconcile with the provisions of WTO.

The Industry and Trade Law (Law No.18, 1998)

1. Article 4 B of the Law authorizes the Ministry of Industry and Trade to organize and monitor «internal and external trade..... particularly in terms of the following: 1. Control markets to protect national interests». This very sweeping authorization is likely to cause problems in WTO.
2. The rules about the responsibilities of the Ministry of Industry and Trade in respect of trading in basic materials (Article 6 and 7 of the Law) will certainly be considered by WTO as state trading measures under Article XVII of GATT. It is not clear from the Law, which the basic materials are and whether the Ministry has monopoly rights in respect of these materials.

3. In Article 16 A - 1, there is a reference to «any person sold, displayed, or stored for later sale...». It presumably means any person who sells, displays, or stores for later sale...
4. In the last paragraph of Article 16 A, there is a stipulation that prohibits any person from preventing ministry officers from performing duties and functions, provided that «this refusal shall be physical». This is not very clear (but it does not concern WTO).

Import and Export Regulation (Regulation No.74, 1993)

1. It seems that this Regulation exempts most imports and exports from the licensing requirements (item P of Article 3 and item I of Article 14). This is provisions that will be welcomed by WTO. There are, however, a number of points that are not clear and/or will cause concern in WTO.
2. Article 4 stipulates that the Minister of Industry and Trade may require a license (that would otherwise not be required) if he is convinced that imports of a particular product from a particular country is being dumped. This is not in conformity with the Anti-Dumping Agreement; only measures specified in the Agreement (anti-dumping duties and price undertakings) are permissible anti-dumping measures.
3. Article 9 establishes an Import Fee of 5% ad valorem. It is not clear if this fee is a charge for services rendered. If it is, it will certainly be considered to be too high. If it is not, it may be treated as an additional import charge that is allowed under Article II: 1 (b) GATT but will be subject to negotiation and will have to be «frozen» in Jordan's tariff schedule. This fee has, however, been eliminated.

4. It should be noted that Article 18 stipulates that exports to WTO countries - after Jordan's accession will be subject to WTO provisions. There is no similar provision concerning imports.

To the text of Regulation 74 of 1993 is attached Article 29 on Traffic Fees of the Law of Roads of 1986. This Article does not cause WTO problems.

Regulations of Importation (Regulation No.1, 1997)

The Regulation refers to By - Law No.74, 1993; this presumably means Regulation 74.

First and Second Sections: The list of imports not requiring a license is, it seems, an addition to the list in the 1993 Regulation. This is a step in the right direction.

Seventh Section: There is in paragraph 1 a reference to appendix No.2 This Appendix is not included in the text I received. The need to obtain a prior recommendation is to be considered as an import restriction, falling under Article XI of GATT, and will have to be justified. It is not clear which the chemicals in Paragraph 2 are that need approval for their importation, but the approval requirement may be covered by the health exception in Article XX of GATT. The list of products, the importation of which is prohibited under Paragraph 3 and Appendix No.3, will meet with objections in WTO, Items 4 (vehicles more than five years old) and 6 (AlKat) may be accepted as health exceptions, but the other items seem unlikely to be accepted by WTO. The products referred to in Paragraph 4 and Appendix No.4, the importation of which is limited to certain enterprises, may not cause problems as such, but the enterprises (except category 8) will have to be notified as state trading monopolies under Article XVII of GATT. The provisions of Paragraphs 5 and 6 may be acceptable.

REGULATION ON PREPARATION AND ISSUANCE OF LICENSES FOR THE CONDUCT OF EXPORT-IMPORT TRANSACTIONS

1. This Regulation determines the rules for preparation and issuance of licenses for export and import of goods to Jordan and shall apply to all business participants, with disregard to the ownership form, affiliation and place of registration, except cases provided for in Jordan's legislation and international treaties to which it is party.
2. A license shall be a permission for export and import of goods and shall be provided along with the customs declaration to the competent customs body.
3. When applying for a license, the applicant shall file the application in the established form. The application shall enclose:

- the original of the export contract (changes and amendments thereto), a copy and a translation certified by the head of the export/import organization;
- a copy of the purchase-sale contract, verified in the established order, if the external-trade transactions participants not own the good;
- a copy of the certificate of state registration;
- the certificate of origin of the good and a copy thereof;
- the certificate of quality of the good and a copy thereof;
- a copy of the tax-payer registration card.

The responsibility for the validity of the data contained in the application for a license shall be born by the applicant.

4. A single-use license shall be issued to the applicant for a period of the calendar year for the conduct of one export or import transaction.

A general license shall be issued for the time necessary for conduct of export and import transactions, but not to exceed a calendar year.

Transactions under the general license can be conducted under one or several contracts.

Licenses shall be issued for one type of product with disregard to the number of descriptions included in the contract. There shall be allowed the issuance of a general license for several types of goods, if they are included in a single group for construction or modernization of one object, as well as for works and services, if they are included in a single technological complex.

A license shall be prepared in two copies. One copy shall be provided to the business participants for presenting to the customs authorities, another one shall be kept in the file of the entity which issues the license.

5. Based on a motivated request by the applicant, the duration of the license can be extended in the established order.
6. The preparation and issuance of licenses shall be done within 20 days from the date of receiving the application.
7. The grounds for refusal to issue a license can be the following:
 - incorrect preparation of the application and the enclosed documents;
 - provision of inaccurate data on the transaction;
 - non-provision of all documents listed in paragraph 3 of this Regulation;
 - failure to pay the license fee;

- if with regard to the applicant, there is a court decision prohibiting him [her/it] from engaging in that type of activities;
 - if the contract's terms contradict the foreign trade policy of Jordan.
8. The decision to refuse the issuance of a license shall be motivated and shall be transmitted to the applicant in written form.
 9. If the license has not been issued within the deadline provided for in paragraph 6 of this Regulation, or the refusal is deemed as unmotivated by the applicant, he [she/it] shall have the right to appeal in court.
 10. Exporters (importers) shall ship goods for export (import) only after the licenses have been issued.
 11. Transport enterprises shall not accept the cargo for shipment if there is no export (import) license.
 12. The issued license shall not be transferable to other legal entities, unless the legislation of Jordan provides otherwise.
 13. The license can be revoked by the licensor in case of:
 - non-performance by the businesses participants of requirements in the license;
 - a court decision prohibiting the business participant to engage in export, import of goods or related activities, for which he [she/it] has been licensed.
 14. In case of change in the terms of a contract, the license issued shall be subject to change through the entity which issued the license, within 10 days.
 15. In case of the loss of or damage to the license, the businesses participants shall:
 - [1] within 10 days from the moment of the loss of the license notify the licensor, [2] make an appropriate announcement in mass media, [3] file an application for issuance of a duplicate of the license.
 16. For issuance of licenses, extension of duration of licenses and issuance of a duplicate there shall be charged a fee in the amount and the order established by the Government of Jordan.
 17. List of products for which export and import licenses are required are annexed to this Regulation.

Draft
Law on Import and Export Licensing

Article 1
General Provisions

1. All Jordanian legal person have the right to import and export.
2. All Jordanians legal persons registered with the objective of conducting trade activities have the right to import and export for commercial purposes; other Jordanians legal entities may only import and export for non-commercial purposes.
3. Any Legal persons may obtain an import and export license if requirements for obtaining such license are fulfilled in accordance with this Law and relevant Regulations.
4. All licenses are issued by the Ministry of Industry and Trade in consultation with the sectoral ministries according to decision of the Council of Ministers. No more than 3 ministries (state bodies) may be involved in the issuance of licenses. The applicant will only have to interface with MIT.
5. The requirements for obtaining licenses shall be the following:
 - Application (format to be developed by MIT)
 - Identity: For Jordanian juridical person, copy of registration as juridical person; for Jordanian natural persons, copy of identification card proving such;
 - License fee reflecting the cost of service rendered.
6. Licenses may be issued for one single good, a category of goods according to the Harmonized System, or a combination of goods used in the production of a final product.
7. Applicants shall be allowed a reasonable period for the submission of license applications. Were there is a closing date, this period shall be at least 21 days with provision for extension in circumstances where insufficient applications have been received within this period.
8. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in respect of any omissions or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.
9. Licenses shall not be refused for minor variations in value, quantity or weight from the amount designated on the license due to differences occurring during shipment,

differences incidental to bulk loading and other minor differences consistent with normal practice.

10. Reasons for a refusal must be provided to the applicant in writing upon his/her request. The applicant shall have the right to appeal to the court within 30 days from the date of notification.
11. Licenses may be transferred with the approval of the Ministry of Industry and Trade.
12. Licenses may be cancelled in the circumstances stipulated in Article 10 A of Law No. 14 of 1992.
13. Copy (certified) of licenses must be presented to customs along with customs declaration.
14. In case of loss of a license, the licensee may apply for replacement. The Ministry of Industry and Trade shall issued a new license within 1 business day and charge a fee corresponding to the service rendered.
15. The foreign exchange necessary to pay for licensed imports shall be made available to license holders on the same basic as to importers of goods not requiring import licenses.

Article 2

Automatic Licensing

1. Automatic licensing is licensing where approval of the application is granted in all cases, in accordance with the requirements of paragraph 2(a).
2. The following provisions shall apply to automatic licensing procedures:
 - (a) automatic licensing procedures shall not be administrated in such a manner as to have restricting effects on import subjects to automatic licensing. Automatic licensing procedures shall be deemed to have trade-restricting effects unless, *inter alia*:
 - (i) any person, firm or institution which fulfils the legal requirements of Jordan for engaging in trade operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licenses;
 - (ii) applications for licenses may be submitted on any working day prior to the customs clearance or the goods;

- (iii) applications for licenses when submitted in appropriate and complete form are approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days;
- (b) automatic licenses are issued for one year. The licensee has the right to import/export an unlimited number of shipments during the period of validity of license.
- (?) Automatic licensing will be maintained as long as the circumstance which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way.

Article 3

Non-Automatic Licensing

1. The following provisions shall apply to non-automatic licensing procedures. Non-automatic licensing is licensing not falling within the definition contained in paragraph 1 of Article 2. Non-automatic licenses are issued to regulate quantitative restrictions established in accordance with other laws and International Agreements.
2. Non-automatic licensing shall not have trade-restrictive or –distortive effects on trade additional to those caused by the imposition of the restriction. Non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.
3. In the case of licensing requirements for purposes other than the implementation of quantitative restrictions, sufficient information should be published for governments and trades to know the basis for granting and/or allocating licenses.
4. If the possibility is provided to persons, firms or institutions to request exceptions or derogations from a licensing requirement, it shall include this fact in the information published under Article 5 as well as information on how to make such a request and , to the extent possible, an indication of the circumstance under which request will be considered.
5. (a) Jordan shall provide, upon the request of any Member of WTO having an interest in the trade in the product concerned, all relevant information concerning:
 - (i) the administration of the restrictions;
 - (ii) the import licenses granted over a recent period;
 - (iii) the distribution of such licenses among supplying countries;

- (iv) where practicable, statistics (i.e. value and/or volume) which respect to the products subjects to licensing;
- (b) the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas and any changes thereof shall be published, within the time periods specified in Article 5 and in such a manner as to enable government and trades to become acquainted with them;
- (?) in the case of quotas allocated among supplying countries, Members of WTO having an interest in supplying the product concerned shall be promptly informed of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and this information shall be published within the time periods specified in Article 5 and in such a manner as to enable governments and trades to become acquainted with them;
- (d) where situations arise which make it necessary to provide for an early opening data of quotas, the information referred to Article 5 shall be published within the time-periods specified in Article 5 and in such a manner as to enable governments and trades to become acquainted with them;
- (e) any person, firm or institution which fulfils the legal and administrative requirements of Jordan shall be equally eligible to apply and to be considered for a license. If the license application is not approved, the applicant shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of Jordan;
- (f) the period for processing applications shall, except when not possible for reasons outside the control of the Member, not be longer than 30 days if applications are considered as and when received, i.e. on a first-come first-served basis, and no longer than 60 days if all applications are considered simultaneously. In the latter case, the period for processing applications shall be considered to begin on the day following the closing date of the announced application period;
- (g) the period of license validity shall be of reasonable duration and not be so short as to preclude imports. The period of license validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements;

- (h) when administering quotas , the Ministry of Industry and Trade shall not prevent importation from being effected in accordance with the issued licenses, and shall not discourage the full utilization of quotas;
- (i) when issuing licenses, the Ministry of industry and Trade shall take into account the desirability of issuing licenses for products in economic quantities;
- (j) in allocating licenses, the Ministry of Industry and Trade shall consider the import performance of the applicant. In this regard, consideration shall be given as to whether licenses issued to applicants in the past have been fully utilized during a recent representative period. In case where licenses have not been fully utilized, the reasons for this shall be examined and these reasons shall be taken into consideration when allocating new licenses. Consideration shall also b given to ensuring a reasonable distribution of licenses to new importers, taken into account the desirability of issuing licenses for products in economic quantities.
- (k) In the case of quotas administrated through licenses which are not allocated among supplying countries, license holders shall be free to choose the sources of imports. In the case of quotas allocated among supplying countries, the license shall clearly stipulate the country or countries;
- (l) In applying paragraph 9 of Article 1, compensating adjustments may be in future license allocations where imports exceeded a previous license level.

Article 4
Notification to WTO

1. If Jordan institute additional import licensing procedures or changes in these procedures it shall notify the WTO Committee on Import Licensing of such within 60 days of publication.
2. Notifications of import licensing procedures shall include the following information:
 - (a) list of products subject to licensing procedures;
 - (b) contact point for information on eligibility;
 - (c) administrative body(ies) for submission of applications;
 - (d) date and name of publication where licensing procedures are published;

- (e) indication of whether the licensing procedure is automatic or non-automatic according to definitions contained in Articles 2 and 3;
 - (f) in the case of automatic import licensing procedures, their administrative purpose;
 - (g) in the case of non-automatic import licensing procedures, indication of the measure being implemented through the licensing procedure; and
 - (h) expected duration of the licensing procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided.
3. Notifications of changes in import licensing procedures shall indicate the elements mentioned above, if changes in such occur.
4. The Committee shall be notified of the publication(s) on which the information required in Article 5 will be published.

Article 5 Final Provisions

1. The rules and all information concerning procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications, the administrative body(ies) to be approached , and the lists of products subject to the licensing requirement shall be published, in the sources notified to the Committee on import Licensing in such a manner as to enable governments and trades to become acquainted with them. Such publication shall take place, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date. Any exceptions, derogations or changes in or from the rules concerning licensing procedures or the list of products subject to import licensing shall also be published in the same manner and within the same time periods as specified above. Copies of these publications shall also be made available to the Secretariat of the WTO.